

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF LOUISIANA

ALEXANDRIA DIVISION

P H L VARIABLE LIFE INS. CO.

CIVIL ACTION NO. 1:07-CV-01115

-vs-

JUDGE DRELL

ANGELLA ROMERO, et al.

MAGISTRATE JUDGE KIRK


J U D G M E N T

Based on written reasons given this date, **IT IS HEREBY ORDERED** that the dispositions of the three cross-motions for summary judgment pending in the above referenced matter (Docs. 50, 52, 54) are as follows:

- (1) Doc. 50, a motion for partial summary judgment by BRANT M. SEGURA and SHANNON SEGURA, is **DENIED**;
- (2) Doc. 52, a motion for partial summary judgment by ANGELLA ROMERO, is **DENIED**; and
- (3) Doc. 54, a motion for summary judgment by P H L Variable Life Ins. Co. ("PHL") on the merits of its complaint and against the defendants' counterclaims, is **GRANTED IN PART** as to the following claims regarding PHL's lawsuit under former La. R.S. 22:619:
 - (a) that Mr. Mark H. Segura ("Mr. Segura") made factual misrepresentations in his application for life insurance;
 - (b) that the premium of the insurance policy issued by PHL to Mr. Segura was affected by Mr. Segura's misrepresentations; and
 - (c) that the timing of PHL's initial underwriting review did not prevent Mr. Segura's misrepresentations from being considered "material" under the statute.

- (4) The remaining portions of Doc. 54 are **DENIED IN PART** as to the following issues regarding PHL's lawsuit under former La. R.S. 22:619:
- (a) whether Mr. Segura misrepresented facts in his application for life insurance to PHL with the actual intent to deceive PHL;
 - (b) whether PHL has waived its right to contest the validity of the policy that it issued to Mr. Segura for failure to investigate; and
 - (c) whether PHL is liable for statutory penalties, costs, fees, and/or damages.

SIGNED on this 14th day of September, 2009, at Alexandria, Louisiana.



DEE D. DRELL
UNITED STATES DISTRICT JUDGE